



Friedrich Wilhelm Augustus von Steuben was the Inspector General of the Continental Army and served under General George Washington. He is recognized as the "Father of the Inspector General System" of the United States Military.



Inspector General
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Inspections and Evaluations Directorate

**Evaluation Report on
the DoD Chaplain Program**

November 10, 2004
Report No. IE-2004-001



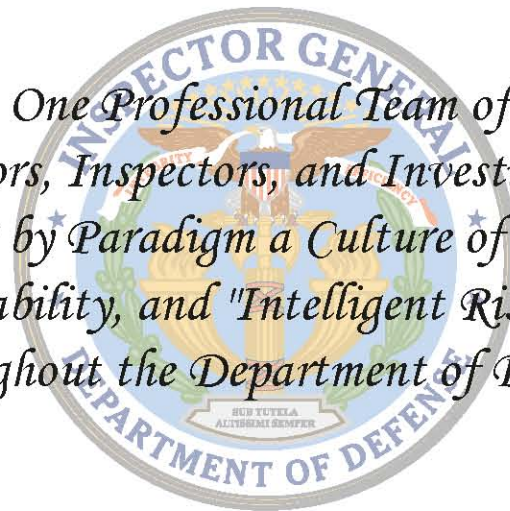
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Who Should Read This Report and Why?

Civilian and military program managers with responsibility for full time chaplains throughout the Federal Government should read this report. The report discusses program policy in depth without focusing on any specific faith or religion. In March 2003, Senator Charles Schumer requested that DoD conduct an inquiry into the vetting of muslim clerics. In October 2003, the Principal Deputy Under Secretary of Defense for Personnel and Readiness testified on the officership and credentialing of military chaplains for the Military Departments, and stated that the Inspector General of the Department of Defense would address the Senator's concerns.

What Was Identified.

The DoD chaplain program reflects the efforts of the Office of the Secretary of Defense and the Services to meet the spiritual needs of Service members, while balancing national security and religious freedom. DoD process controls limit program participation to clergy that fulfill the religious needs of members of the Armed Forces, their family members, and other authorized individuals, such as military retirees and civilian employees. The chaplain program stresses religious pluralism to fulfill those needs.

The focus of program regulations and procedures is to obtain professionally qualified clergy and to verify the candidate's officership, professional, and religious qualifications. Officership qualifications for chaplains are virtually identical to the qualifications of military officers recruited for other specialties. The professional qualifications for chaplains are similar and comparable to other military professionals, such as doctors and lawyers. DoD relies on religious organizations and their representative agents, who are outside government purview, to determine religious qualifications for endorsing chaplain candidates.

During our review, DoD chaplain program officials updated policy and incorporated many of our suggested changes. However, the Deputy Under Secretary of Defense for Military Personnel Policy could further improve operating procedures to administer DoD policies regarding religious organizations and their agents who endorse chaplain candidates.

How it Can Be Improved.

We recommended that DoD program officials (1) establish procedures to verify or revalidate religious organizations and their agents who endorse chaplain candidates; (2) establish criteria to disqualify religious organizations and their endorsing agents for cause; (3) establish procedures to collect adverse information when religious organizations, endorsing agents, or chaplains fail to meet established criteria; and (4) complete, publish, and implement updated program policy (completed). The Deputy Under Secretary of Defense for Military Personnel Policy nonconcurred with the recommendation that DoD collect adverse information on religious organizations and their endorsing agents. We also recommend that Army and Navy Chiefs of Chaplains modify Military Department policy to authorize Service officials to withdraw the chaplain insignia of office for chaplains undergoing dismissal proceedings for cause. The Navy concurred and will consider the recommendation when revising Navy instructions. The Army nonconcurred.

GENERAL INFORMATION

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Executive Summary

DoD Chaplain Program

Purpose: Our overall objective was to evaluate the efficacy of the DoD processes to:

- add new religions to the chaplain program;
- recognize and review chaplain endorsing ecclesiastical organizations;
- recruit, train, retain, and dismiss chaplains; and
- provide Military Departments and Office of the Secretary of Defense oversight of chaplain programs.

Background: Allegations against Islamic religious organizations that endorsed Islamic chaplains to the Military Departments generated congressional concerns about the credibility of the DoD accession process for military chaplains. Beginning in March 2003, Senator Charles Schumer sent a series of letters to the DoD Inspector General requesting an inquiry into the organizations vetting candidates and the process for selecting Islamic chaplains for the Military Departments. The Inspector General subsequently recommended to the Under Secretary of Defense for Personnel and Readiness that the Department consider vetting religious organizations that provide chaplain endorsing services to the Department of Defense and subsequently discussed the recommendation with congressional leaders. On October 14, 2003, the Principal Deputy Under Secretary of Defense for Personnel and Readiness testified before the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security on the officership and credentialing of military chaplains. We initiated this evaluation on October 23, 2003, to respond to Senator Schumer's request.

Results: The DoD chaplain program reflects the efforts of OSD and the Services to meet the spiritual needs of Service members, while balancing national security and religious freedom. DoD process controls limit program participation to clergy that fulfill the religious needs of members of the Armed Forces, their family members, and other authorized individuals, such as military retirees and civilian employees. The chaplain program stresses religious pluralism to fulfill those needs.

The focus of program regulations and procedures is to obtain professionally qualified clergy and to verify the candidate's officership and trustworthiness, as well as professional and religious qualifications. Officership qualifications for chaplains are virtually identical to the qualifications of military officers recruited for other specialties. The professional qualifications for chaplains are similar and comparable to other military professionals, such as doctors and lawyers. The certification of religious qualifications is unique within the military in that the leaders of a faith group determine the religious qualifications of their clergy person. DoD relies on religious organizations and their agents to determine religious qualifications for endorsing chaplain candidates.

DoD developed and implemented controls over the accession, conduct, and dismissal of military chaplains. During our review, program officials updated policy and incorporated many of our suggested changes. However, the Deputy Under Secretary of Defense for Military Personnel Policy could further improve operating procedures of the Armed Forces Chaplains Board to administer DoD policies regarding religious organizations and their agents who endorse chaplain candidates. We identified five opportunities to improve the overall chaplain program:

1. The Armed Forces Chaplains Board should establish internal operating procedures to verify or revalidate religious organizations and their agents who endorse chaplain candidates.
2. The chaplain program should establish disqualification criteria for religious organizations and/or their endorsing agents.
3. The Deputy Under Secretary of Defense for Military Personnel Policy should establish procedures to identify when religious organizations, endorsing agents, or chaplains fail to meet DoD Chaplain program policy.
4. The Deputy Under Secretary of Defense for Military Personnel Policy should complete, publish, and implement an updated program policy, and should effectively communicate the changed requirements to all program stakeholders.
5. The Army and the Navy Chiefs of Chaplains should address the withdrawal of the chaplain insignia of office for those chaplains undergoing dismissal proceedings.
(Note: The Air Force has already established this policy.)

On June 11, 2004, the Deputy Under Secretary of Defense for Military Personnel Policy reissued DoD Directive 1304.19, "Appointment of Chaplains for the Military Departments," and issued the implementing DoD Instruction 1304.28, "Guidance for the Appointment of Chaplains for the Military Departments," dated June 11, 2004. During our evaluation, we reviewed the draft documents and identified areas for improvement. The Deputy Under Secretary of Defense Military Personnel Policy agreed with our suggestions and incorporated the changes to the draft policy.

Management Comments. The Acting Deputy Under Secretary of Defense for Military Personnel Policy concurred with Observations 1, 2, and 5. He nonconcurred with Observation 3, stating that "suggested actions were legally problematic to the DoD Office of General Counsel." He stated "a chaplain ordinarily receives sufficient scrutiny for selection, appointment, and merit-based retention – all centering on individual merit. However, consistent with longstanding practice, Treasury's Internal Revenue Service should remain the focal point for institutional merit." Furthermore, he stated that DoD IG should "report its concerns regarding the frequency of review of previous tax-exemption determinations, to Treasury's Inspector General and urge more frequent review." See Appendix D for the complete response.

The Army nonconcurred with Observation 4 stating "current Army policies and personnel procedures provide for adjudication of offenses within the Army's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to

be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a chaplain's branch designation as a primary response to an alleged offense." See Appendix E for the complete response.

The Navy concurred with Observation 4, stating, "current Navy policies and personnel procedures provide for adjudication of offenses within the Navy's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a Chaplain's Corps designation as a primary response to an alleged offense. However, there may be reason to explore such authority and procedure after initial actions have been taken and are to be done so from the standpoint of professional qualifications to provide religious ministry in the Department of the Navy. Currently several instructions governing the policy on chaplain service in the Navy are under revision. The recommendation of the DoD IG will be considered during this process." See Appendix F for the complete response.

I&E Response. The Acting Deputy Under Secretary of Defense for Military Personnel Policy comments are not fully responsive to the recommendation. The intent of the recommendations was to develop a process to react to available information, not to proactively judge institutional merit. DoD should be able to reject endorsements from any religious organization or endorsing agent convicted of terrorist or criminal actions. We do not anticipate that DoD would contemplate adverse action while an investigation of alleged wrongdoing was under way. However, DoD may address congressional concerns by taking appropriate action on organizations and agents that the courts have found guilty of violating laws aimed at safeguarding the safety of the United States and its citizens. The DoDI 1304.28 and the Under Secretary of Defense October 14, 2003 memorandum (Appendix C) requires tax exemption status for ecclesiastical endorsing organizations. Resolving concerns about the credibility for DoD's use of the Department of the Treasury's Internal Revenue Code 501(c)(3) as a tax-exempt requirement is the responsibility of the Deputy Under Secretary of Defense for Military Personnel Policy.

We expanded the discussion in Observation 3, revised Recommendations a. and b., and added Recommendations c. and d. to emphasize the need for due diligence in recognizing religious organizations and their endorsing agents. The Acting Deputy Under Secretary of Defense for Military Personnel Policy is requested to comment on the final report by December 17, 2004.

The Recommendation to Observation 4 concerns chaplains undergoing actions that warrant relief from duties or dismissal for cause. The Air Force has procedures in place for the removal of chaplain designation and insignia. The Navy concurred with Observation 4, and their comments were responsive to the Recommendation. We request that the Army reconsider its position on this Recommendation and provide a formal response to the final report. We believe that the removal of a chaplain designation is not punitive in nature. Instead, the designation removal is protective of those members of the military that might assume an officer wearing the designation is a practicing chaplain. Otherwise, a military member could request professional services such as counseling, communion, or the hearing of confession from a chaplain who may be unqualified or suspended from chaplain duties.

Results

Purpose

To evaluate the efficacy of the DoD processes to:

- add new religions to the chaplain program;
- recognize and review chaplain endorsing ecclesiastical organizations;
- recruit, train, retain, and dismiss chaplains; and
- provide Military Departments and Office of the Secretary of Defense oversight of chaplain programs.

Background

Legal actions against Islamic religious organizations that provided Islamic chaplains to the Military Departments generated congressional attention concerning the credibility of the DoD accession process for military chaplains. Beginning in March 2003, Senator Charles Schumer sent a series of letters to the DoD Inspector General requesting an inquiry into the organizations vetting candidates and the process for selecting Islamic chaplains for the Military Departments. On October 14, 2003, the Principal Deputy Under Secretary of Defense for Personnel and Readiness testified before the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security on the officership and credentialing of military chaplains. We initiated this evaluation on October 23, 2003, to respond to Senator Schumer's request. The DoD Inspector General met with the members of the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security on October 28, 2003. During this meeting, the Senators expressed their concern with current Islamic chaplains and the religious organizations (ROs) that endorse them. Congressional questions raised during testimonies are addressed in Appendix B, "Congressional Concerns." For this review, we chose not to focus on any particular faith group, but, instead, considered the overall process to effectively manage the DoD chaplain program.

Religious Freedom in the United States

The First Amendment of the United States Constitution prohibits Congress from passing laws regarding the establishment of religion, or prohibiting the free exercise of religion. Consistent with the First Amendment, as a general proposition, Government agencies cannot favor one religion over another and should not interfere with or infringe upon an individual's practice of religion. However, the free exercise clause of the First Amendment may not prevent the Government from requiring or forbidding the performance of an act based on religious beliefs, e.g., payment of taxes.

DoD Practices Incorporate Constitutional Rights to Religious Freedom

Military commanders are responsible for mission accomplishment and the good order and discipline of their units. Commanders are also required to provide appropriate religious support to all authorized individuals within their command. To balance religious freedom and military necessity, DoD established policy stating that commanders should approve requests for accommodation of religious practices when the accommodation will not have an adverse impact on military readiness, unit cohesion, standards, or discipline. However, practices and rituals associated with the individual's religious beliefs and creed must not be illegal or contrary to clearly defined public policy. DoD appoints professionally qualified clergy to accommodate the free exercise of religion in the context of military service.

Exemplary Conduct Standards for Commanders and "Others in Authority" in the Military Services

Title 10 United States Code § Sections 3583, 5947, and 8583 require Army, Navy, and Air Force commanding officers and others in authority to:

- show in themselves a good example of virtue, honor, patriotism, and subordination;
- be vigilant in inspecting the conduct of all persons who are placed under their command;
- guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and Service regulations, all persons who are guilty of them; and
- take all necessary and proper measures, under the laws, regulations, and customs of the Service to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

The DoD Chaplain Program

DoD recruits military chaplains to provide spiritual care for all members of the Military Departments, their family members, and other authorized persons, such as military retirees and civilian employees. Religious pluralism is a fundamental concept of the program. Chaplains are expected to perform ministry for their own faith group and provide for the rights and needs of other faith groups in their areas of responsibility.

The Under Secretary of Defense for Personnel and Readiness (USD[P&R]) exercises responsibility for the chaplain program through the Deputy Under Secretary of Defense for Military Personnel Policy (DUSD[MPP]). DoD Directive (DoDD) 5120.8, “Armed Forces Chaplains Board Charter,” established the Armed Forces Chaplains Board (AFCB), consisting of the Chiefs and the Deputy Chiefs of Chaplains of the Army, the Navy, and the Air Force. Among its other duties, the AFCB makes recommendations to DUSD(MPP) on religious, ethical, and moral standards for the Military Departments, and policies for the protection of religious guarantees under the First Amendment of the U.S. Constitution. The USD(P&R) is the decision authority for recommendations concerning the chaplain program.

As of November 2003, the Military Departments had almost 2,900 active duty chaplains serving approximately 2.5 million active duty and reserve members. The Army had 1,367, the Navy had 912, and the Air Force had 612 active duty chaplains. DoD has nearly 4,800 total chaplains including those in the Reserve and National Guard. The Marine Corps uses Navy chaplains for religious ministry. The majority of Military chaplains are members of five faith groups: Protestant, Roman Catholic, Orthodox, Jewish, and Muslim.

DoD Policies and Procedures

The DoD chaplain program is governed by DoDD 1304.19, “Appointment of Chaplains for the Military Services,” September 18, 1993, and an October 14, 2003 policy memorandum¹ on the same subject signed by the Principal Deputy Under Secretary of Defense for Personnel and Readiness (see Appendix C). In addition, the Army, the Navy, and the Air Force each have unique regulations governing their respective chaplain program.

The focus of the DoD chaplain program is recruitment, accession, service, and dismissal of individual military chaplains. Once

¹ This directive and policy memorandum was replaced by a new DoD Directive 1304.19 and DoD Instruction 1304.28 on June 11, 2004.

recruited, candidates must meet officership, professional, and religious qualifications prior to becoming a military chaplain.

- Officership qualifications include the ability to obtain and hold a security clearance based on information submitted on Standard Form 86, “Questionnaire for National Security Positions.” In addition, an officer must pass any citizenship requirements, physical standards for military service, and satisfy age restrictions.
- Professional qualifications deal primarily with education from an accredited school. The candidate must possess a baccalaureate degree of not less than 120 hours and 72 hours of graduate education study in theology or related subjects.
- Religious qualifications include an endorsement from the chaplain’s RO. The applicant must be a fully qualified clergy of the faith group and must be willing to support religious pluralism.

Officership qualifications and day-to-day activities as a military chaplain, to include training, assignments, conduct, and performance are governed by DoD and Military Department regulations and controlled by the Military Departments.

DoDD 1304.19 establishes the professional qualifications for chaplain candidates. Although specific requirements differ, the accession process is similar to the processes used by other professions, like the Medical Corps and the Judge Advocate General Corps. The sources of “licensing,” or the authority to practice the profession, differ significantly. Doctors and lawyers must pass state-sanctioned exams. However, chaplains receive authority to provide religious services at the discretion of the endorsing agent, who verifies that the chaplain applicant has received the requisite education and religious leadership experience.

The October 14, 2003 policy memorandum modified the requirements for the RO to certify and endorse chaplain candidates. To sponsor a candidate for the chaplaincy, the RO must:

- be formed to meet a lay constituency need for a chaplain;
- hold an Internal Revenue Code (IRC) 501(c)(3) tax exemption status; and
- present a qualified candidate.

ROs must also agree that their candidates will perform their duties in cooperation with religious ministry professionals from other religious faith groups.

The ROs submit endorsements to the AFCB. The DUSD(MPP), through the AFCB, retains responsibility for verifying that ROs and their endorsing agents continue to meet DoD requirements and are suitable for endorsing chaplain candidates.

Definitions

The following definitions were used in this evaluation:

- **Adverse Information.** Any substantiated adverse finding or conclusion from an officially documented investigation or inquiry.
- **Church.** The Internal Revenue Service (IRS) has interpreted tax laws enacted by Congress, Treasury regulations, and court decisions to identify characteristics generally attributed to churches. Accordingly, the key characteristics of a church include: distinct legal existence; recognized creed and form of worship; definite and distinct ecclesiastical government; formal code of doctrine and discipline; ordained ministers selected after completing prescribed courses of study; literature of its own; established places of worship; regular congregations; regular religious services; schools for the religious instruction of the young; and schools for the preparation of its ministers. The IRS uses a combination of some or all of these characteristics to determine whether an organization is a church for Federal tax purposes.
- **Endorsing Agent.** An endorsing agent is the individual authorized to provide or withdraw ecclesiastical endorsements of religious ministry professionals on behalf of an RO. The endorsing agent provides written documentation that an applicant for the military chaplaincy is fully and professionally qualified and endorsed to perform all offices, functions, sacraments, ordinances, and ceremonies required of a DoD chaplain for that RO, and is capable and authorized to minister as required within a pluralistic environment.
- **Faith Group.** A general, inclusive term that might be used to refer to a religion, denomination, sect, or cult.
- **Internal Revenue Code 501(c)(3).** Churches and religious organizations, like many other charitable organizations, qualify for exemption from Federal income tax under Internal Revenue Code Section 501 (c)(3) and are generally eligible to receive tax-deductible contributions.
- **Religious Ministry Professional.** A religious ministry professional is a fully qualified member of the clergy who is

endorsed to represent an RO and to conduct its religious observances or ceremonies. The professional may be an ordained minister or the equivalent for those ROs that do not require ordination.

- **Religious Organization (RO).** An entity that is organized and functions primarily to perform religious ministries to a non-military lay constituency, and has met the religious purposes test as defined by the IRS. We are using the abbreviation RO to refer to religious organizations in this report.
- **Religious Pluralism.** The DoDI 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” describes pluralistic environment as a descriptor of the military context of ministry to support directly and indirectly the free exercise of religion by all members of the Military Services and their family members. The instruction defines it as a plurality of religious traditions existing side-by-side in the military.

Methodology - The *Crystal Focus* Process

Crystal Focus is an independent and objective inspection or evaluation of a key DoD-wide program or process. The Crystal Focus process provides a transparent, yet focused evaluation of DoD issues. Normally, senior leadership requests these evaluations. We seek requestor input to develop objectives and to tailor product formats to best convey our findings. Crystal Focus products highlight the most significant issues and provide timely recommendations for senior leadership action. We conduct the reviews in accordance with the criteria in the March 1993 *Quality Standards for Inspections* published by the President’s Council on Integrity and Efficiency. The project team will perform follow-up on all recommendations resulting from a Crystal Focus project. Follow-ups will normally occur at 12 and 18 months after the project is completed.

Prior to publishing the report, the Crystal Focus team briefs the results, observations, and recommendations to senior officials of the DoD Office of the Inspector General (IG); DoD management; the requestor of the review, and appropriate program managers. We provide program managers with the opportunity for formal comment and include their verbatim comments in the final report. See Appendix A for an explanation of the methodology used for this report. See Appendix G for a list of organizations visited.

The team conducted interviews with senior members in the Office of the Secretary of Defense (OSD) and leaders of the Military Departments, as well as representatives from the Internal Revenue Service, Federal Bureau of Prisons, Department of Justice Office of the IG, chaplain offices of the Military Departments, and security offices of the Military Departments. The Crystal Focus methodology included a comparison of chaplain program procedures with procedures for accessioning doctors and lawyers. We identified differences in education, training, and citizenship requirements, and the need for security clearances, where applicable.

We also surveyed RO agents who endorsed applicants for the military chaplaincy. The purpose was to determine what information the agent had gathered on the endorsed applicant, and whether the agent maintained contact with the chaplain after endorsement.

Overall Assessment

The DoD chaplain program reflects the efforts of OSD and the Services to meet the spiritual needs of Service members, while balancing national security and religious freedom. In addition, DoD now requires that ROs meet IRS tax exemption requirements. DoD directives limit program participation to professionally qualified clergy who fulfill the needs of members of the Armed Forces. The chaplain program stresses religious pluralism.

The focus of program regulations and procedures is to obtain professionally qualified clergy and to verify the candidate's officership, professional, and religious qualifications. Officership qualifications for chaplains are virtually identical to the qualifications of military officers recruited for other specialties. The professional qualifications for chaplains are similar and comparable to other military professionals, such as doctors and lawyers. However, the certification of religious qualifications is unique within the military in that the leaders of a faith group determine the religious qualifications of their clergy person. DoD relies on religious organizations and their representative agents, which are outside government purview, to determine religious qualifications.

During our review, DoD chaplain program officials made a concerted effort to update policy and incorporated many of our suggested changes. However, the DUSD(MPP) could further improve internal operating procedures of the AFCB to administer DoD policies regarding religious organizations and their agents who endorse chaplain candidates.

DoD has an established process for recognizing and reviewing ROs that endorse applicants for the chaplaincy, and military procedures

for recruiting, accessing, training, retaining, and dismissing chaplains. However, we made five observations and identified opportunities to improve the overall chaplain program with five related recommendations.

Observations

The chaplain program reflects the efforts of DoD to meet the spiritual needs of Service members, while balancing national security and religious freedom. However, the DUSD(MPP) could improve the procedures for managing information on ROs and their agents who endorse chaplain candidates. The following observations were made in support of the announced objectives:

- Observation 1. DoD adds a new religion when the Military Departments recognize the needs of a lay constituency or accept a qualified chaplain who represents a new religion.
- Observation 2. The AFCB has not exercised the option of revoking the recognition of an RO that fails to meet the DoD requirements.
- Observation 3. DoDI 1304.28 does not include nonreligious criteria to disqualify either an RO or its endorsing agent.
- Observation 4. The Army and the Navy have not established procedures to withdraw or remove a chaplain's designation for cause.
- Observation 5. The DUSD(MPP) has not issued implementing instructions to clarify policy expressed in the October 14, 2003 memorandum on the "Appointment of Chaplains for Military Service."

On June 11, 2004, the DUSD(MPP) revised DoDD 1304.19 and published DoDI 1304.28 implementing instructions. The new policies require that for ROs to participate in the DoD chaplain program, the RO must:

- be tax exempt as a church under IRC 501(c)(3);
- obtain an Employer Identification Number;
- notify the AFCB immediately when changes occur in the status of the RO, or the designated endorsing agent, or if contact addresses and telephone numbers of either are changed; and
- provide to the AFCB annually a complete list of endorsed chaplains.

During the evaluation, we reviewed the draft directive and instruction and identified areas for improvement. The DUSD(MPP) agreed with our suggestions and incorporated the changes to the draft policy.

Addition of New Religions to the Chaplain Program

Observation 1

Officials of the Armed forces Chaplains Board (AFCB) informed us that the Department of Defense (DoD) adds a new religion when the Military Departments recognize the need based on their lay constituencies. After the need is established, the Military will accept a qualified chaplain, who represents the new religion, based on policies and procedures outlined in the DoD Directive 1304.19, “Appointment of Chaplains for the Military Departments” and the June 11, 2004, DoD Instruction, “Guidance for the Appointment of Chaplains for the Military Departments.” However, the Military will only accept a chaplain candidate who also meets Military requirements. Therefore, the addition of a new religion to the chaplain program is incidental to the requirement for and acceptance of a professionally qualified clergy to the military chaplaincy.

Discussion

Religious Organizations (ROs) may provide applicants for the DoD chaplaincy for consideration, but Military Departments will only accept an applicant based on the religious needs of members of their Service, family members, and other authorized persons, such as retirees and civilian employees. The addition of a new religion to the chaplain program becomes contingent upon:

- Lay constituency need for a chaplain;
- AFCB acceptance of an RO seeking DoD recognition to provide chaplains for the military; and
- Military Department acceptance of the endorsed individual for the chaplaincy.

To present applicants for the DoD chaplain program, a religious faith group must meet specific requirements. The AFCB does not consider what faith group the RO represents provided the organization meets DoD administrative filing requirements and endorses a fully and professionally qualified chaplain applicant. To qualify, the applicant has to represent a faith needed by a Service lay constituency, be endorsed by an RO, be committed to serve in a pluralistic environment, and meet the officer qualifications for military service.

Impact

DoD policies and procedures, including the requirements stated in the Under Secretary of Defense for Personnel and Readiness October 14, 2003 memorandum (see Appendix C), focus on the prospective chaplain's qualifications and the administrative filing requirements of the sponsoring RO. DoD chaplain program officials stated that specific control procedures to review religious doctrine or practices could lead to questions concerning individual rights to religious freedom guaranteed under the United States Constitution. The current process allows for the addition of any faith represented by a prospective chaplain who respects the free exercise of religion and agrees to provide services in a pluralistic environment.

Recommendations

None required.

Management Comment

The Deputy Under Secretary of Defense for Military Personnel Policy concurred with the observation.

Review and Recognition of Religious Organizations

Observation 2

According to the DoD Directive 1304.19, “Appointment of Chaplains for the Military Services,” religious organizations (ROs) must verify that they continue to meet specific requirements. The Armed Forces Chaplains Board (AFCB) has not exercised the option of revoking the recognition of 21 ROs that failed to meet DoD requirements.

Discussion

The AFCB oversight of endorsing ROs includes the gathering and maintenance of accurate information on the ROs, their endorsing agents, and other officials of the organizations. In 2000, the AFCB notified ROs to submit written verification of continued compliance with DoDD 1304.19 requirements. The verification procedure updates current names, addresses, and phone numbers of RO officers and endorsing agents. Twenty-one of the 196 ROs did not respond to original and follow up requests. The October 14, 2003 policy change also requires ROs that endorse chaplains to meet tax exemption requirements under Internal Revenue Code (IRC) 501(c)(3). The DoDD 1304.19 gives the AFCB authority to revoke recognition of an RO that has not verified it meets the requirements for recognition as an ecclesiastical endorsing organization. However, the AFCB had not exercised that authority. The AFCB should have notified the delinquent ROs of their possible loss of recognition and should have taken positive measures to address the ROs’ non-compliance. The AFCB needs internal operating procedures to ensure current data on ROs and endorsing agents are maintained.

Impact

The AFCB list of 196 endorsing ROs was not accurate, which weakened the AFCB oversight role over the ROs.

Recommendations

The Deputy Under Secretary of Defense for Military Personnel Policy should strengthen oversight of religious organizations.

Suggested actions are:

- a. Establish internal operating procedures for the Armed Forces Chaplains Board to verify compliance by religious organizations with DoD requirements;
- b. Require religious organizations to comply with the verification procedures in DoD Instruction 1304.28; and
- c. Revoke recognition of all religious organizations that fail to comply.

Management Comments

The Deputy Under Secretary of Defense for Military Personnel Policy concurred with this observation and recommendations.

Review and Recognition of Religious Organizations (continued)

Observation 3

The June 11, 2004, Department of Defense Instruction (DoDI) 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” does not include nonreligious criteria to disqualify either a religious organization (RO) or its endorsing agent.

Congressional Interest

Senator Schumer stated in his request letter that two ROs with “disturbing connections to terrorism” had endorsed chaplains. In addition, the former endorsing agent of one of the ROs was indicted on Federal charges. The ROs in question remain eligible to provide candidates for the DoD chaplain program. Existing regulations do not define instances when the Armed Forces Chaplains Board (AFCB) should take action. Examples of such instances may include proven connection to terrorist groups, serious breaches of ethics, or advocating overthrow of the U.S. Government.

The DoD Inspector General met with Senators Kyl and Feinstein on October 28, 2003, concerning muslim cleric issues. During that meeting, both senators expressed their concern regarding security reviews of ROs and endorsing agents. The senators suggested that DoD or the Department of Justice should perform background investigations on ROs and their endorsing agents before vetting a chaplain.

Discussion

The DoDI 1304.28 outlines the criteria that ROs must meet in order to endorse candidates for service as military chaplains. The endorsing agents represent the ROs, not the Government. DoD does not control the endorsing agents’ appointments, their qualifications, or their endorsements of chaplain candidates. Therefore, DoD should have procedures to disqualify ROs and their endorsing agents for cause in order to reassure the public and Congress that DoD is safeguarding the military against ROs and endorsing agents guilty of violating U.S. laws.

The AFCB does not have the authority to conduct formal background investigations on ROs or their endorsing agents. We

consulted with officials from the DoD Office of General Counsel, Office of General Counsel, Inspector General, and the Federal Bureau of Investigation (FBI) National Joint Terrorism Task Force about performing background investigations. Based on these consultations, we determined that privacy laws prohibit disclosure of personal information without the individual's approval. Attorney General policy does not authorize non-law enforcement officials, such as the Deputy Under Secretary of Defense for Military Personnel Policy (DUSD[MPP]) or the AFCB, to routinely request and obtain information concerning ongoing investigations of non-Government organization officials and other non-DoD personnel. However, DoD can request a law enforcement type review in cases of probable cause regarding criminal activity.

Information on ROs and endorsing agents may be available from non-law enforcement sources during the background investigations of chaplain candidates. When candidates use ROs or endorsing agents as references, Defense Security Service investigators should query those references. In addition, program officials learn of indictments and convictions of ROs, their officers, and endorsing agents from the media. However, relying solely on the media is, at best, a questionable practice, given the inherent problems of accuracy, credibility, and bias.

Currently, procedures are in place to gather, evaluate, and act on adverse information. For example, DoD reviews equal employment opportunity files and publicly disclosed financial records to identify adverse information about General or Flag Officers. As another example, the Federal Bureau of Prisons requests and receives screening information from the FBI that includes a threat assessment of national and local religious endorsing organizations. This information is advisory in nature and does not constitute a formal recommendation by the FBI.

It may be reasonable to establish a screening process similar to the Federal Bureau of Prisons that routinely canvasses existing FBI databases for adverse information concerning ROs and endorsers. This type of information would support judgments about the religious organizations and individuals endorsing DoD chaplains and reinforce the need to develop applicable nonreligious disqualifying criteria.

Although we are not advocating a specific criterion or screening procedure, we believe that the DUSD (MPP) should consider implementing a process that can identify those ROs or endorsing agents found guilty of violating U.S. law or breach of any other non-religious criteria. Such action would exercise due diligence toward maintaining full faith and confidence in ROs and their endorsements of chaplains to the Military.

Impact

Illegal actions or breaches of non-religious criteria of ROs or their endorsing agents could affect the selection process for military chaplains. Moreover, relations with ROs and their endorsing agents that are linked to illegal actions or breaches of non-religious criteria may negatively influence public perception of the DoD chaplain program and the DoD as a whole.

Recommendations

The Deputy Under Secretary of Defense for Military Personnel Policy should:

a. Establish nonreligious criteria to justify the Armed Forces Chaplains Board withdrawal or removal of a religious organization or its agent from participating in the DoD chaplain program. Examples of such criteria could include:

- Advocating the violent overthrow of the U.S. Government;
- Listed on a watch list as a terrorist organization;
- Conviction of a religious organization or its principal leaders in connection with terrorism;
- Conviction of endorsing agents in connection with any criminal activity; and
- Conviction of endorsing agents for acts constituting a breach of non-religious criteria as developed by the Deputy Under Secretary of Defense for Military Personnel Policy.

b. Develop screening procedures for collecting existing information from Federal Bureau of Investigation databases and public sources relating to chaplains, their supporting religious organizations, and endorsers.

c. Develop and impose program sanctions against those religious organizations or their agents that fail to meet the criteria developed for Recommendation a. above. Examples of sanctions include removing the religious organization from the Armed Forces Chaplains Board list of recognized endorsing organizations or disqualifying its agent from endorsing chaplains.

d. Promptly refer to the DoD Inspector General any specific allegation impacting DoD leadership's "full faith and confidence" regarding adverse conduct or behavior of an RO or endorsing agent.

Management Comments and Evaluation Response

The Deputy Under Secretary of Defense for Military Personnel Policy responded to Recommendations a. and b. that were included in the draft report. The complete response is included in Appendix D.

We added language in the discussion and congressional interest paragraphs to explain the intent of the recommendations, reworded Recommendations a. and b. and added Recommendations c. and d. We request that the Deputy Under Secretary of Defense for Military Personnel Policy address the new recommendations in a response to the final report.

Management Comments. The Acting DUSD(MPP) nonconcurred, stating that recommended actions “were legally problematic to the DoD Office of General Counsel The DoD must remain responsible for judgments about a person’s bona fides to serve as an officer and a chaplain A chaplain ordinarily receives sufficient scrutiny for selection, appointment, and merit-based retention – all centering on individual merit [The] Treasury’s Internal Revenue Service should remain the focal point for institutional merit.”

To make the recommendation executable, the Acting DUSD(MPP) suggested that “DoDIG should report its concerns regarding frequency of review of previous tax-exemption determinations to the Treasury Inspector General and urge more frequent reviews as a means of reducing the potential for enriching coffers of those who might post harm to the Nation.”

I&E Response. Management comments are not fully responsive to the recommendations. The intent of the recommendations was for DUSD(MPP) to develop a process to react to available information, not to proactively judge institutional merit. At a minimum, DoD should be able to suspend or reject endorsements from any religious organization or endorsing agent involved in terrorist or criminal actions. We do not anticipate that DoD would contemplate adverse action while an investigation of alleged wrongdoing was under way. However, the DUSD(MPP) should have a process to address congressional concerns by taking appropriate action on organizations and agents that the courts have found guilty of violating laws aimed to safeguard the safety of the United States and its citizens.

The DoDI 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” dated June 11, 2004, and the October 14, 2003 memorandum requires tax exemption status for ecclesiastical endorsing organizations. Therefore, DUSD(MPP)

should ensure that the Department of Treasury's Internal Revenue Code (IRC) 501(c)(3) criteria are adequate as a standard to qualify an RO. Resolving concerns about the credibility for DoD's use of the IRC 501(c)(3) as a tax exempt requirement is the responsibility of DUSD(MPP).

We reworded Recommendations a. and b. and added Recommendations c. and d. to emphasize the need for due diligence in screening religious organizations and their endorsing agent.

Procedures for Recruiting, Accessing, Training, Retaining, and Dismissing Chaplains

Observation 4

The Army and the Navy have not established procedures to withdraw or remove a chaplain's designation for cause.

Discussion

Military chaplains receive their designation insignia upon completion of Military Department accession requirements, provided a religious organization (RO) has also endorsed the prospective chaplain's qualifications as a religious leader. Only the endorsing agent, acting for an RO, can retract the religious endorsement of a chaplain. However, the Military Departments can and do prosecute chaplains for offenses under the Uniform Code of Military Justice. Should a Military Department determine that the offense warrants removal of the individual from chaplain responsibilities, the Military Department must request that the chaplain's RO withdraw its endorsement in order to remove the chaplain's designation.

Two issues are associated with the request for withdrawal of endorsement. First, Armed Forces Chaplains Board (AFCB) officials stated that providing personal information about a chaplain's status to ROs during a disciplinary process was restricted by the Privacy Act. Thirteen of 45 endorsing agents we surveyed stated they experienced difficulties obtaining the information that the agents could have used to counsel or withdraw their endorsement of a chaplain who had failed to meet the ethical or moral standards of their RO. Unless informed by the chaplain of the details surrounding his or her disciplinary issues, the endorsing RO may not always have sufficient information to withdraw its endorsement. Second, the RO may disagree with the determination of a Military Department on the individual's ability to perform as a clergy and may refuse to withdraw its endorsement.

Procedures of the Military Departments

The Military Departments have different procedures to withdraw a chaplain's designation or specialty code for adverse personnel actions. In the Army, adverse personnel actions did not automatically cause the loss or change of an officer's chaplain designation. The chaplain's commander informs the Executive

Officer of the Office of the Army Chief of Chaplains of the pending or probable adverse action against a chaplain. Upon such notification, the Army directs the chaplain to tell his or her endorsing agent of the adverse action. If the chaplain fails to notify the agent, the agent would not know to retract the chaplain's endorsement. The Navy similarly relies on the RO to withdraw its endorsement. Neither the Army nor the Navy has a policy for the direct withdrawal of the chaplain designation as a result of adverse actions.

The Air Force instituted a different procedure. Air Force Instruction 52-102, "Chaplain Professional Development," provides that under specific circumstances, including failure to maintain professional or ethical standards, the Air Force has the authority to withdraw the chaplain designation. Under these circumstances the Air Force chaplain is not qualified, nor permitted, to perform religious ministry duties.

Impact

Unless the Army and the Navy adopts procedures to remove the chaplain insignia or designation, a chaplain engaging in actions that warrant relief from duties or dismissal for cause may continue to serve as a chaplain until that chaplain's RO withdraws its endorsement. Failure to adopt such procedures could result in a chaplain performing religious duties while officially suspended. A person seeking religious counsel from such a chaplain would likely be unaware of the suspension status if the designation has not been removed. Additionally, the suspension could be over a significant period of time pending the withdrawal of endorsement by the religious organization. As noted in a previous Observation, RO response to AFCB requests for information has been marginal.

Recommendation

The Chiefs of Chaplains of the Army and the Navy should revise their instructions to address removal or withdrawal of the chaplain designation when that individual fails to uphold professional or ethical standards or is being removed for cause.

Management Comments and Evaluation Response

Deputy Under Secretary of Defense for Military Personnel Policy Response. The DUSD(MPP) stated that the Army and the Navy Chief of Chaplains are reviewing the draft report and that any

actions [response] on this Observation and Recommendation are a Service-level responsibility.

Army Response. The Army nonconcurred with this Recommendation stating “current Army policies and personnel procedures provide for adjudication of offenses within the Army's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a chaplain's branch designation as a primary response to an alleged offense.” See Appendix E.

Navy Response. The Navy concurred stating, “current Navy policies and personnel procedures provide for adjudication of offenses within the Navy's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a chaplain's corps designation as a primary response to an alleged offense. *However, there may be reason to explore such authority and procedure after initial actions have been taken and are to be done so from the standpoint of professional qualifications to provide religious ministry in the Department of the Navy. Currently several instructions governing the policy on chaplain service in the Navy are under revision. The recommendation of the DoD IG will be considered during this process.*” (Emphasis added) See Appendix F.

I&E Response. The Air Force has procedures in place for the removal of chaplain designation and insignia and we consider the Navy comments to be responsive to the Recommendation. We request the Army reconsider and provide a formal response to the final report.

The Recommendation concerns chaplains undergoing actions that warrant relief from duties or dismissal for cause. We believe that the removal of a chaplain designation is not punitive in nature. Instead, the designation removal is protective of those members of the military that might assume an officer wearing the designation is a practicing chaplain. Otherwise, a military member could request professional services, such as, counseling, communion, or the hearing of confession from a chaplain who may be unqualified or suspended from chaplain duties.

Oversight of Chaplain Program

Observation 5

DoD 5025.1-M, “DoD Directive System Procedures, March 3, 2003, requires that policy memorandums be incorporated into a formal directive within 180 days of issuance. The Deputy Under Secretary of Defense for Military Personnel Policy (DUSD[MPP]) needs to issue implementing instructions to clarify policy written in the Under Secretary of Defense October 14, 2003 memorandum, “Appointment of Chaplains for the Military Service.” Also, the policy is open to interpretation concerning which requirements under Internal Revenue Code (IRC) 501(c)(3) apply. Therefore, the policy may not result in the intended strengthening of DoD oversight procedures for religious organizations.

Discussion

The October 14, 2003 policy memo stipulates that a religious organization (RO) desiring to sponsor chaplains must hold tax-exempt status under IRC 501(c)(3). The IRC allows churches, charitable organizations, and others that qualify to file for tax exemption under Section 501(c)(3). The amount and frequency of information and documentation that each type of organization submits to the Internal Revenue Service (IRS) in support of its application differs. The DUSD(MPP) policy memo is silent on whether an RO has the option to file as a church, a charitable organization, or some other entity eligible for tax exemption under Section 501(c)(3). The memo also does not address pre-existing conditions that affect filing requirements.

To apply for tax exemption, an organization submits IRS Form 1023, “Application for Recognition of Exemption.” There are some exceptions. For example, churches and organizations formed before October 9, 1969, are not required to submit Form 1023 to be granted the tax exemption. However, they may choose to do so to provide information to the public.

The IRS lists organizations that are qualified to receive tax-deductible contributions in IRS Publication 78, “Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986.”

To be classified as a church, the RO submits to the IRS their information about funding, religious practices, doctrines, and

frequencies of services and other church related information. IRS standards for churches include:

- 1) “That the particular beliefs of the organization are truly and sincerely held.
- 2) That the practices and rituals associated with the organization’s religious belief or creed are not illegal or contrary to clearly defined public policy.”

The RO files the information only once and no annual financial statement is required thereafter. By contrast, a charitable organization provides no information about religious practices and is required to file annual financial forms to show sources of funding if total funding exceeds \$25,000. Therefore, DoD may not find any information from IRS public records concerning the religious practices and funding sources of a church. DoD may be able to get financial reports only from charitable organizations.

The IRS had no records for 110 of the 196 religious organizations that currently endorse DoD chaplains. The absence of records may be explained by the exemption from filing requirements for churches and organizations that existed before 1969. The IRS identified 11 of the 86 organizations for which records existed as charitable organizations. The remaining 75 were churches. DoD implementing instructions should address what type of information yielded through compliance with the IRC 501(c)(3) requirements is essential for DoD oversight. When contacted, IRS officials stated they were not aware of the October 14, 2003 policy memo requiring tax exemption status. When surveyed, responses by members of the National Conference on Ministry to the Armed Forces reflected concern about communications with the AFCB and procedures for implementing their policies.

The DoDD 1304.19, “Appointment of Chaplains for the Military Departments,” was reissued on June 11, 2004 with the related DoDI 1304.28, Guidance for the Appointment of Chaplains for the Military Departments.” The October 14, 2003 policy memorandum was implemented in the revised Instruction, which requires that an RO file for tax exemption as a church for Federal tax purposes. Therefore, the ROs will not have to submit annual financial reports to the IRS to qualify as endorsers of chaplains. However, they will be required to describe the characteristics that qualify them as churches that serve lay constituencies.

Recommendations

The Deputy Under Secretary of Defense for Military Personnel Policy should:

- a. Publish a new directive with revised policy and instructions to implement the October 14, 2003 policy memorandum; and
- b. Direct the Armed Forces Chaplains Board to conduct outreach with stakeholders and the Internal Revenue Service to ensure successful implementation of the new DoD Directive concerning tax-exempt status for religious organizations.

Management Comments

Management concurred with the observation and recommendations. The Principle Deputy Under Secretary of Defense for Personnel and Readiness replaced DoD Directive 1304.19, "Appointment of Chaplains for the Military Departments," with DoD Directive 1304.19, "Appointment of Chaplains for the Military Departments," dated June 11, 2004, and a separate implementing instruction, DoD Instruction 1304.28, "Guidance for the Appointment of Chaplains for the Military Departments," dated June 11, 2004. DUSD(MPP) stated that the AFCB maintains contact with stakeholders like the National Conference on Ministry in the Armed Forces to discuss DoD chaplain issues and that they will continue to maintain a dialogue.

Appendix A – Methodology

Scope and Methodology

Scope. This Crystal Focus project examined chaplain policies or processes at DoD and the headquarters level of the Military Departments. We did not review or analyze the effect of policy on any particular religion or RO.

Work Performed. We reviewed chaplain policy at OSD and at the headquarters of the Military Departments. The Inspector General discussed the vetting of religious organizations with OSD and Congressional leadership. We relied on published research, literature, and congressional transcripts dated from September 1988 through February 2004. The team performed the following steps between October 2003 and April 2004.

- Reviewed relevant DoD, Army, Navy, and Air Force policy and guidance governing the chaplain program.
- Reviewed applicable audits, evaluations, and inspections from the past 5 years associated with the chaplain program.
- Conducted interviews with senior OSD officials, as well as, representatives of the IRS, Federal Bureau of Prisons, Department of Justice Office of the IG, chaplain offices of the Military Departments, and security offices of the Military Departments. See Appendix D for a list of organizations visited.
- Distributed a survey questionnaire to 110 endorsing agents and other participants in the December 2003 National Conference on Ministry to the Armed Forces. We received 45 responses representing 45 different ROs.
- Analyzed current DoD policy and guidance with proposed draft DoD policy and guidance and formally made suggested changes to the draft policy and guidance.
- Analyzed IRS procedures for issuing, reviewing, and maintaining IRC 501(c)(3) tax exemption status. Additionally, we reviewed IRS data on ROs endorsing chaplains to the DoD.

Standards for Inspections

We performed the inspection in accordance with the standards established by the President's Council on Integrity and Efficiency in the publication "*Quality Standards for Inspections*," March 1993.

Appendix B – Congressional Concerns

Questions Raised by Senator Schumer, March 10, 2003

How do we ensure that certifying religious organizations (ROs) are “of the highest caliber, have unimpeachable reputations, and endorse religious pluralism?”

The chaplain, not the religious organization, provides ministry to the military. DoDD 1304.19 requires chaplains of the Military Departments to “facilitate ministries appropriate to the rights and needs of other faith groups in the pluralistic military environment.” The Military Chiefs of Chaplains, as members of the Armed Forces Chaplains Board (AFCB), provide recommendations to the Under Secretary of Defense for Personnel and Readiness (USD[P&R]) on the “religious, ethical, and moral standards for the Military Services.” As the senior clergy person for their Military Department, they are responsible for the proper implementation of DoD policy on religious pluralism.

In accordance with the October 14, 2003, DoD policy memorandum on the Appointment of Chaplains for Military Departments, organizations desiring to endorse chaplains must meet the criteria for tax exemption under Internal Revenue Code (IRC) 501(c)(3). Under that section of the code, the Internal Revenue Service (IRS) maintains two basic guidelines in determining that an organization meets the religious purposes test:

- The particular religious beliefs of the organization are truly and sincerely held; and
- The practices and rituals associated with the organization’s religious beliefs or creed are not illegal or contrary to clearly defined public policy.

DoD relies upon IRS verification of the information submitted by the organization to obtain tax-exempt status. This action should improve DoD controls over endorsing religious organizations. The DUSD(MPP) will also strengthen DoD controls by having the AFCB retain current, as well as adverse, information on ROs and by updating policy.

“Is it appropriate for the GSISS [Graduate School of Islamic Social Sciences] and AMAFVA [American Muslim Armed Forces and Veterans Association] to continue in their advisory capacities?”

We did not include reviews of specific endorsing organizations. Prior to October 14, 2003, DoD had few or no tools to conduct such an assessment. However, as of October 14, 2003, DoD requires new ROs recommending religious ministry professionals as chaplains to have tax-exempt status in accordance with IRC 501(c)(3). In addition, if the Principle Deputy Under Secretary of Defense for Personnel and Readiness implements the recommendations in this report, the AFCB should have additional useful information to determine whether a particular RO should be acceptable to endorse chaplains.

Questions Raised in Congressional Testimony, October 14, 2003

Existing criteria for certifying religious organizations are insufficient. What do you plan to add? (Senator Schumer)

OSD has drafted policy that implements the requirement for IRC 501(c)(3) tax-exempt status and increases the frequency of self-certification for ROs from every three years to annually. In addition, the implementation of recommendations in Observation 3 of this report will significantly improve DoD controls over endorsing ROs.

What are the details behind the 2001 delegation to Saudi Arabia sponsored by the Muslim World League? (Senator Schumer)

The matter is outside the scope of this evaluation of the DoD chaplain program.

How do you deal with defining religions and ruling certain religions unacceptable? (Senator Durbin)

DoD is committed to the protection of religious guarantees under the First Amendment to the U.S. Constitution. Specific control procedures for reviewing religious doctrine or practices could lead to public perception that DoD favored one religion over another, or may raise questions concerning guaranteed religious freedom.

Questions Raised by Senator Kyl in a Meeting with the Inspector General of the Department of Defense, October 28, 2003

Is DoD adequately reviewing endorsing agencies?

ROs and their representing agents act as endorsing agencies for military chaplains. DoD has established criteria for both religious organizations and their agents' involvement in the program. However, First Amendment religious freedoms apply, and the DoD is constrained by the lack of any direct relationship between DoD and the endorsing organizations. DoD can improve oversight of endorsing agents through operating procedures to: (1) verify compliance to DoD requirements by new and current ROs; (2) require ROs to provide their IRC 501(c)(3) data; and (3) reject all future religious endorsements issued by those organizations that no longer comply with DoD policy.

Do the current Muslim Clerics represent the current mix of Muslim Service members?

As of April 2004, the 12 Islamic DoD chaplains on active duty represented Sunni Islam. The relative representation among military members is unknown. Military members provide religious affiliation on a voluntary basis, and the Military Departments do not differentiate between the branches of Islam.

Appendix C – Policy Memorandum



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

OCT 14 2003

MEMORANDUM FOR ASSISTANT SECRETARY OF ARMY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF NAVY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF AIR FORCE
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Appointment of Chaplains for Military Service

This guidance is provided pending reissuance of Department of Defense Directive 1304.19, "Appointment of Chaplains for Military Service" and is effective immediately. This guidance shall be incorporated in the next revision of the Directive.

An Ecclesiastical Certifying Agent (Certifier) is authorized to provide or withdraw Ecclesiastical Certification on behalf of a Religious Organization. Such Certification is written documentation from a Religious Organization which complies with the administrative requirements of Department policy. The Certification provides assurance to the Department that an applicant for the military chaplaincy is fully and professionally qualified and endorsed to perform all offices, functions, sacraments, ordinances, and ceremonies required of a Religious Ministry Professional (RMP).

Effective immediately, any religious organization which is formed to meet a lay constituency, holds an Internal Revenue Code (IRC) 501(c)(3) tax exempt status, and can present a qualified RMP, may function as a Certifier and may sponsor a RMP as a chaplain. The Military Services shall compare the individual's qualifications to the Service's requirements, and select on a merit basis under procedures established by the Secretary of the Military Department concerned. Appropriate security vetting shall be accomplished.

Should a Certifier become disqualified from performing that role (e.g., through loss of IRC 501(c)(3) tax exempt status), RMPs serving under that certification must affiliate with another Certifier, if qualified. Absent such an affiliation, the affected RMP may be processed for separation.

Charles S. Abell
Principal Deputy



Appendix D. DoD Comments



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

AUG 10 2004

MEMORANDUM FOR DIRECTOR, INSPECTIONS AND EVALUATIONS,
DODIG

SUBJECT: DoD Chaplain Program (Project No. D-2004-DIP0E2-0021)

In response to your memorandum, dated June 21, 2004, subject as above, comments are attached. Chaplain, Colonel Richard K. Hum, Executive Director, Armed Forces Chaplains Board, is the point of contact. He may be reached at (703) 697-9015.

A handwritten signature in black ink, appearing to read "WJ Carr", is located below the main text.

William J. Carr
Acting Deputy Under Secretary
(Military Personnel Policy)

Attachment:
As stated

**Response to Crystal Focus, DoD Chaplain Program, Project Number D-2004-
DIPOE2-0021 June 2004**

OBSERVATION 1 - The Department of Defense (DoD) adds a new religion when the Military Departments accept a qualified chaplain who represents a new religion. Therefore, the addition of a new religion to the chaplain program is incidental to the requirement for and acceptance of a professionally qualified clergy to the military chaplaincy.

Recommendation: None

Response: Concur.

OBSERVATION 2 - The Armed Forces Chaplains Board (AFCB) has not exercised the option of revoking the recognition of a religious organization (RO) that fails to meet DoD requirements. According to the directive, the organizations must verify every three years that they continue to meet specific requirements.

Recommendations: The Deputy Under Secretary of Defense for Military Personnel Policy should strengthen oversight of religious organizations. Suggested actions are:
a. Establish internal operating procedures for the Armed Forces Chaplains Board to verify compliance by religious organizations with DoD requirements;
b. Require religious organizations to comply with the verification procedures in DoD Directive 1304.19; and
c. Revoke recognition of all religious organizations that fail to comply.

Response: Concur. This issue has been addressed in the newly released DoD I 1304.28. The AFCB intends to pursue a policy of educating Endorsers of the requirements and to develop controls to ensure compliance. Because the AFCB desires to preserve an attitude of cooperation and support, the scope of the possible problem of endorser noncompliance and possible avenues of action will be developed with advice of the NCMAF.

OBSERVATION 3 - The Department of Defense Directive (DoDD) 1304.19 does not include nonreligious criteria to disqualify either a religious organization (RO) or its endorsing agent.

Recommendations: The Deputy Under Secretary of Defense for Military Personnel
a. Establish nonreligious criteria to disqualify a religious organization or its agent from participation in the chaplains program.
Such criteria could include:
• Advocating the violent overthrow of the U.S. Government by the religious organization;
• Federal indictment or conviction of religious organization leaders in connection with terrorism; and

- Indictment or conviction of endorsing agents for acts constituting a breach of ethics or morality.
- b. Establish procedures to collect sensitive information and impose sanctions against those religious organizations and agents that fail to meet the established criteria. Examples of sanctions include removal of the religious organization from the Armed Forces Services Board list of recognized endorsing organizations or disqualifying its agent from endorsing chaplains.

Response: Non-Concur with suggestion to make this recommendation more executable. By and large, the suggested actions were legally problematic to the DoD Office of General Counsel (OGC); however, by strong pointing the Government locus for “institutional” bona fides, the same objective could be achieved.

a. ***Institutional vs. Individual.*** The DoD must remain responsible for judgments about a person’s bona fides to serve as an officer and a chaplain. Through the normal process of background investigations, supervision required of all officers, commanders’ oversight, and coordination with local law enforcement and investigative agencies, we believe a chaplain ordinarily receives sufficient scrutiny for selection, appointment, and merit-based retention – all centering on individual merit. However, consistent with longstanding practice, Treasury’s Internal Revenue Service should remain the focal point for institutional merit.

Individual Screens. If a chaplain is convicted of illegal activities he/she is subject to the same legal and administrative sanctions as any other officer. If a trend among chaplains from a single religious organization arose, there would be reasonable cause for the DoD to review the endorser status of the religious organization. Potentially, as a consequence of that review, the DoD could consider the organization to be non-compliant with the administrative provisions required by those who would endorse chaplains for the military.

b. ***Controlling Interagency Redundancy.*** Treasury presently holds responsibility for relieving certain institutions of tax burden (in effect, having the public underwrite – or at least *not* financially impede – the organization’s purpose). Since it would be incongruous to enrich coffers of those posing a threat to the Nation (e.g., by supporting terrorism), it follows that this IRS checkpoint must be as strong as law and Constitution would allow. That said, DoD should rely on that agency’s determinations and press it to aggressively perform that function. The DoDIG’s review identified weaknesses in the frequency of IRS review of organizations it previously had judged qualified for tax exemption. Thus we recommend that the thrust of this Recommendation be modified to stipulate the following:

Interagency Notification. DoDIG shall report its concerns regarding frequency of review of previous tax-exemption determinations, to Treasury’s Inspector General and urge more frequent review as a means of reducing the potential for enriching coffers of those who might post harm to the Nation.

OBSERVATION 4 - The Army and the Navy have not established procedures to withdraw or remove a chaplain's designation for cause.

Recommendations: The Chiefs of Chaplains of the Army and the Navy should revise their instructions to address removal or withdrawal of the chaplain designation when that individual fails to uphold professional or ethical standards or is being removed for cause.

Response: This report is currently being reviewed by the Services. Any action from this recommendation is a Service-level responsibility.

OBSERVATION 5 - The Deputy Under Secretary of Defense for Military Personnel Policy (DUSD[MPP]) needs to issue implementing instructions to clarify policy written in the October 14, 2003 memorandum, "Appointment of Chaplains for Military Service." The policy is open to interpretation concerning which requirements under Internal Revenue Code (IRC) 501(c)(3) apply. Therefore, the policy may not result in the intended strengthening of DoD oversight procedures for religious organizations.

Recommendations: The Deputy Under Secretary of Defense for Military Personnel Policy should:

- a. Publish a new directive with revised policy and instructions to implement the October 14, 2003 policy memorandum; and
- b. Direct the Armed Forces Chaplains Board to conduct outreach with stakeholders and the Internal Revenue Service to ensure successful implementation of the new DoD Directive concerning tax-exempt status for religious organizations.

Response: Concur - DoD Directive 1304.19 and Instruction 1304.28 were signed and placed into effect on June 11, 2004, and will implement this recommendation to the extent legally permissible.

The AFCB has briefed the annual meeting of the NCMAF and the biannual Executive Committee meetings. These will continue.

Appendix E – Army Comments

From: Hill, Philip W CH(COL) (XO) [philip.hill@us.army.mil]
Sent: Wednesday, August 11, 2004 4:46 PM
To: Herbaugh, Michael R. OIG DoD
Cc: Daniels, James W CH(COL); YOUNG, JEFFREY Martin CH (COL) (PER); Hicks, David CH (MG) (Chief of Chaplains)
Subject: Army Chief of Chaplains Response

As requested, following is response of Army Chief of Chaplains, MG David H. Hicks, to OBSERVATION 4 in the DoDIG report, Project Number D-2004-DIPOE2-0021 June 2004:

The Army Chief of Chaplains nonconcurs with the recommendation to: "revise instructions to address removal or withdrawal of the chaplain designation when that individual fails to uphold professional or ethical standards or is being removed for cause".

Current Army policies and personnel procedures provide for adjudication of offenses within the Army's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a chaplain's branch designation as a primary response to an alleged offense.

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Acting Executive Officer

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Appendix F – Navy Comments

Re: DoDIG ReviewFrom: Smith, Lyman M. CAPT NAVPERSCOM FOB2, 1, 1605
[lyman.smith@navy.mil]
Sent: Friday, August 27, 2004 5:17 AM
To: Herbaugh, Michael R., OIG DoD
Subject: RE: DoDIG Review

Michael - Please find attached the concurrence of the Chief of Navy Chaplains with the DoD IG recommendation 4. Thank you for the valuable assistance you have provided in review of chaplain services. R, LMS

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Vocati ad Servitium

"Called to Serve"

The Navy Chief of Chaplains concurs with Observation 4 and will consider the recommendation to: "revise instructions to address removal or withdrawal of the chaplain designation when that individual fails to uphold professional or ethical standards or is being removed for cause" during the next policy revision.

Current Navy policies and personnel procedures provide for adjudication of offenses within the Navy's legal and administrative systems. These extant procedures for judicial and non-judicial personnel actions are applicable to all officers including chaplains. Removal of an officer's designation as chaplain ought not to be punitive or viewed as an initial response to alleged offenses or misconduct. No requirement exists to remove a chaplain's corps designation as a primary response to an alleged offense.

However, there is reason to explore authority and procedure to remove chaplain designation as recommended after initial actions have been taken. Such removal would be done from the standpoint of professional qualifications to provide religious ministry in the Department of the Navy. Several instructions governing the policy on chaplain service in the Navy Currently are under revision. The recommendation of the DoD IG will be considered during this revision.

Appendix G – Organizations Visited

Acting Deputy Under Secretary of Defense (Military Personnel Policy)
Armed Forces Chaplains Board
Executive Director

The Chiefs of Chaplains for the Army, the Navy and the Air Force

Army Security Office
Central Clearance Facility

Navy Security Office
Department of the Navy Central Adjudication Facility

Air Force Security Office
Information Security Division, Director of Security Forces

Department of Justice Inspector General

Federal Bureau of Prisons

Internal Revenue Service
Tax Exempt and Government Entities Division

National Conference on Ministry to the Armed Forces
Executive Committee

Appendix H – Acronym List

AFCB	Armed Forces Chaplains Board
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
DUSD(MPP)	Deputy Under Secretary of Defense (Military Personnel Policy)
FBI	Federal Bureau of Investigation
IRC	Internal Revenue Code
IRS	Internal Revenue Service
IG	Inspector General
OSD	Office of the Secretary of Defense
RO	Religious Organization

Appendix I – Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense (Personnel and Readiness)
Deputy Under Secretary of Defense (Military Personnel Policy)
Armed Forces Chaplains Board

Department of the Army

Inspector General, Department of the Army
Chief of Chaplains

Department of the Navy

Naval Inspector General
Director of Religious Ministries Chief of Chaplains of the Navy

Department of the Air Force

Inspector General, Department of the Air Force
Chief of the Chaplain Service

Non-Defense Federal Organizations and Individuals

Department of Justice
Office of the Inspector General
Federal Bureau of Investigation
Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information
House Committee on Appropriations
House Subcommittee on Defense
House Committee on Armed Services
House Committee on Government Reform
House Committee on the Judiciary
House Subcommittee on National Security, Emerging Threats, and International Relations,
Committee on Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the
Census, Committee on Government Reform

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TEAM MEMBERS

The Special Projects and Technical Support Division, Inspections and Evaluations Directorate, Office of the Deputy Inspector General for Inspections and Policy, Office of the Inspector General for the Department of Defense prepared this report. Personnel who contributed to the report include Michael R. Herbaugh – Team Leader, Madelaine E. Fusfield, George P. Marquardt, LTC Linda Daniels (USA), David L. Leising, and Maj. Eric Kase (USAF).

ADDITIONAL REPORT COPIES

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